REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-3 and 5-11 are pending in the present application.

In the outstanding Office Action, Claims 1-3 and 5-10 were rejected under 35 U.S.C. §103(a) as unpatentable over Kroon et al. (WO 00/18041, hereinafter Kroon) in view of McGibney (U.S. Patent No. 6,594,273), and further in view of Borth (U.S. Patent No. 4,852,090).

With respect to the rejection of Claim 1, Applicants respectfully submit that the outstanding Office Action has not established a proper motivation to combine Kroon, McGibney, and Borth.

The outstanding Office Action states "it would have been obvious to one of ordinary skill in the art at the time the invention was made to use synchronization method taught by Borth **as an alternative** means for synchronization in the system Kroon in view of McGibney..." (emphasis added).[1]

Thus, assuming arguendo that the outstanding Office Action is correct that a person of ordinary skill in the art would be motivated to **replace** the first time slot in each frame (which is used for synchronization) with Borth's synchronization word in each user time slot, the outstanding Office Action would not establish a *prima facie* case of obviousness. The issue is not whether a person of ordinary skill in the art would use one synchronization technique as an alternative to another synchronization technique (i.e., replace one with the other), the issue is whether a person of ordinary skill in the art would be motivated to modify the device of the primary reference to used **both** synchronization techniques.

[1] Office Action, page 5.

Applicants respectfully submit that there is no teaching or suggestion **to have both (not alternatively)** a "general services and synchronization sub-channel" **and** "providing a first part of the information in each sub-channel time slot as configured to provide synchronization information between the stations of the network."

Thus, the outstanding Official Action, on its face, fails to establish a *prima facie* case of obviousness, as the outstanding Office Action admits that a person of ordinary skill in the art would merely use Borth's synchronization technique as an alternative to McGibney's synchronization technique.

Furthermore, the outstanding Office Action cites to nothing that teaches or suggests using two synchronization systems **at the same time**. McGibney's disclosure of one synchronization technique and Borth's disclosure of another synchronization technique does not disclose or suggest using the two techniques together.

In the response to arguments section in the outstanding Office Action, the Office takes the position that a motivation to combine Borth with Kroon and McGibney is found in Borth at col. 2, lines 66-67 and col. 3, lines 1-3. Applicants respectfully traverse this position.

The cited portion of Borth states "A need, therefore, exists to provide a method and means for allowing transmission of data over land mobile radio channels at transmission rates in excess over those normally allowed by the multipath characteristics of the RF channel." This disclosure of Borth does not teach or suggest to a person of ordinary skill in the art that two synchronization schemes should be used together. The outstanding Office Action and Borth do not establish that Borth's synchronization technique is linked to the stated motivation. Furthermore, as Borth provides a method allowing transmission of data over land mobile radio channels at transmission rates in excess over those normally allowed by the multipath characteristics of the RF channel using only one synchronization technique, there is no teaching or suggestion in Borth to used two synchronization techniques at the same time.

Furthermore, MPEP § 2143.01 states, "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious."[2]

McGibney discloses a frame with a synchronization slot, and the remaining slots being data slots.[3] The data slots are further divided into sub-slots to accommodate routing.[4] For McGibney to include synchronization information in each of the data slots, the entire system in McGibney would need to be reconfigured, which would change the basic principle that McGibney was designed to operate under (i.e., synchronization information is in the synchronization slot). See In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

In view of the above-noted distinctions, Applicants respectfully submit that Claim 1 (and Claims 2, 3, and 5-11 dependent thereon) patentably distinguish over McGibney, Borth, and Kroon, taken alone or in proper combination.

Moreover, Applicants respectfully submit that Claim 11 further patentably distinguishes over McGibney, Borth, and Kroon, taken alone or in proper combination. Claim 11 recites "wherein a synchronization pattern is included in the first part of at least one general services and synchronization sub-channel time slot, and a second part of the at least one general services and synchronization sub-channel time slot, following the first part, include information other than synchronization information."

The outstanding Office Action relies on McGibney to disclose the subject matter of Claim 11. However, the portion of McGibney cited to in the outstanding Office Action merely indicates that a frame in McGibney includes a first time slot that is used for

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[2] See also MPEP § 2143.01 citing In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) ("suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.") 270 F.2d at 813, 123 USPQ at 352 (Reversing the rejection).
[3] McGibney, col. 4, lines 29-31.
[4] McGibney, col. 2, lines 17-18.

synchronization.[5] The outstanding Office Action then sets forth the unsupported statement of "...typical synchronization time slots comprise synchronization pattern and guard bits following said synchronization."[6] No such disclosure can be found in McGibney.

Furthermore, Borth discloses that a guard time filed 336 is blank and "contains no data."[7] Thus, Applicants respectfully submit that guard time or guard bits do not equate to "information" since a person of ordinary skill in the art would understand, as evidenced by Borth, that a guard time field include no data (or information).

Furthermore, if the outstanding Office Action intends to rely on Official Notice to support its rejection of Claim 11, then Applicants respectfully traverse the use of Official Notice. The Examiner may take Official Notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). As set forth in MPEP § 2144.03, if an applicant traverses an assertion made by an Examiner while taking official notice, the Examiner should cite a reference in support of their assertion.

In addition, Applicants respectfully traverse those grounds for rejection relying of Official Notice. Applicants do not consider the features for which Official Notice were taken to be "of such notorious character that official notice can be taken." Therefore Applicants traverse this assertion. "The examiner should cite a reference in support of his or her position."[8]

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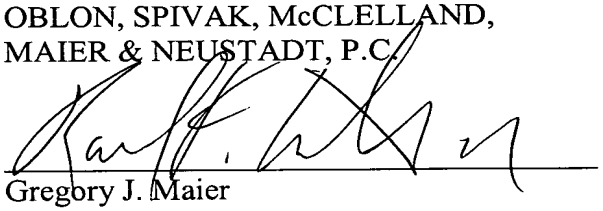
[5] Office Action, page 8, citing McGibney, col. 4, lines 25-32.
[6] Office Action, page 8.
[7] Borth, col. 7, lines 19-23.
[8] MPEP 2144.03, page 2100-129, left column, second full paragraph of MPEP 2144.03.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Raymond F. Cardillo, Jr.
Registration No. 40,440

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

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